



## **MEMORANDUM**

**TO:** District of Columbia Board of Zoning Adjustment

**FROM:** Stephen J. Mordfin, AICP, Case Manager  
Joel Lawson, Associate Director Development Review

**DATE:** January 10, 2012

**SUBJECT:** BZA Case No.18298 – 1633 13<sup>th</sup> Street, N.W.

### **I. OFFICE OF PLANNING RECOMMENDATION**

The Office of Planning (OP) recommends the Board of Zoning Adjustment (BZA) **approve** the requested variance from the requirements of:

- § 401.3, minimum 900 square feet of lot area per unit (2,700 square feet required for the requested three apartment units; 2,520 square feet existing).

The Zoning Regulations, under § 330.3, state that the “*R-4 District shall not be an apartment house district*” and that “*the conversion of existing structures shall be controlled by a minimum lot area per family requirement.*” The subject application is a request to convert a flat into an apartment building that does not conform to the minimum lot area requirement. Therefore, the Office of Planning opposes such requests, unless the site is sufficiently unique to warrant relief.

### **II. LOCATION AND SITE DESCRIPTION**

Address	1633 13 <sup>th</sup> Street, N.W.
Legal Description	Square 277, Lot 7
Ward	2
Lot Characteristics	Rectangular lot with rear alley access
Zoning	R-4: Row dwellings and flats
Existing Development	Two-story flat with an unfinished basement
Historic District	Greater Fourteenth Street
Adjacent Properties	North: Row house South: Four-unit apartment building East: Across the public alley, a church West: Across 13 <sup>th</sup> Street, row houses, flats and small apartment buildings
Surrounding Neighborhood Character	Mixture of residential housing types and churches



### III. HISTORY

December 16, 1988: BZA Order 14949 granted a variance from the lot area requirements for the proposed conversion of a flat into a three-unit apartment house in the R-4 at premises 1633 13<sup>th</sup> Street, N.W. The order expired on June 26, 1989. Work had begun to convert the basement to an apartment, which included digging out the basement, installing utilities and underpinning the foundation.

July 19, 2006: BZA Order 17500 granted a second variance from the minimum lot area requirements to allow the conversion of an existing flat into a three-unit apartment building in the R-4 at premises 1633 13<sup>th</sup> Street, N.W. The order expired on July 29, 2008.

The present owner purchased the property in 2011. Conversion of the basement to a third dwelling unit is still not completed.

### IV. PROPOSAL

The applicant proposes to complete the conversion of the basement level of the building into a third dwelling unit that had begun after the first variance to lot area requirements was granted in 1988. The other two units, on the first and second floors of the building, would remain.

An entrance to the basement unit would be added, providing direct access to the new unit from the sidewalk. A new concrete stair, retaining wall and brick patio would be constructed at the back of the building providing access to the unit from the rear, and an egress window well added within the existing courtyard to serve one of the proposed bedrooms. No other construction is proposed.

Two existing off-street parking spaces at the rear of the property, directly accessible from the alley, would remain.

### V. ZONING REQUIREMENTS and REQUESTED RELIEF

	Required / Permitted	Existing	Proposed	Relief
<b>Lot Area</b> <b>§ 401.3</b>	2,700 SF for proposed 3 dwelling units, or 900 SF/unit	2,520 SF	2,250 SF	180 SF or 60 SF/unit
<b>Lot Width</b> <b>§ 401.3</b>	None prescribed for conversions	21 feet	21 feet	None
<b>Lot Occupancy</b> <b>§ 403.2</b>	60 % maximum	62 %	62 %	None (existing nonconforming condition)
<b>Height</b> <b>§ 400.1</b>	40 feet and 3-story maximum	35 feet and 2.5 stories	35 feet and 2.5 stories	None
<b>Parking</b> <b>§ 2101.1</b>	1 space	2 spaces	2 spaces	None
<b>Rear Yard</b> <b>§ 404.1</b>	20-foot minimum	49.2 feet	49.2 feet	None
<b>Open Court Width</b> <b>§ 406.1</b>	10-foot minimum	4.3 feet	4.3 feet	None (existing nonconforming condition)

Table 1: Zoning Requirements and Requested Relief

## **VI. ANALYSIS OF REQUESTED RELIEF**

### **a. Uniqueness Resulting in a Practical Difficulty**

The subject property is unique because a variance had been granted in 1988 to convert the structure to a three-unit apartment building and work commenced on that conversion pursuant to that approval, including lowering the basement floor, installation of utilities for that unit and the underpinning of a portion of the foundation. For reasons unknown to the current owner work ceased and construction of the third unit was not completed.

The property changed hands and a second variance was granted to permit a three-unit building in 2006, but again the conversion was not completed. The property sold again in 2011, but the current owner cannot complete the third unit because both of the previous orders have expired. Therefore, the subject property is unique in that the basement level was partially converted to a third unit, pursuant to previous BZA actions, but never completed. New permits to complete the work cannot be obtained because the orders have expired.

### **b. No Substantial Detriment to the Public Good**

The granting of relief for an additional unit would not result in substantial harm to the public good. Twice before, in 1988 and 2006, the Board found this request to be in conformance with the provisions for the granting of a variance to the minimum lot area per dwelling unit. Sufficient parking would be provided on-site as defined by Chapter 21 of the Zoning Regulations.

### **c. No Substantial Harm to the Zoning Regulations**

The R-4 district is intended to be primarily a row house district, with conversions permitted provided the subject lot contains a minimum of 900 square feet of lot area per unit. The subject property is not of sufficient size to allow for three dwelling units as a matter-of-right as a conversion, the number of units proposed by the applicant. An apartment house is defined under § 199.1 of the Zoning Regulations as a building containing three or more units, and the R-4 is a zone that is not intended to be an apartment house district.

The subject property is improved as a flat, with a partially constructed third unit within the basement and insufficient lot area to permit three units as a conversion. The requested variance, to reduce the minimum lot area required per unit to 840 square feet, is the same as the previous two variances that were granted for this property. Work on the third unit has never been completed and the orders that granted those variances have expired. The current variance request would allow for not just a reduction in the minimum lot area required per dwelling unit for conversions, but for the completion of work that had legally begun. In addition, the Board found in the two previously approved variances that the granting of a variance to minimum lot area per unit would not result in “*substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan...*”<sup>1</sup>

The Historic Preservation Office approved the application administratively.

## **VII. COMMENTS OF OTHER DISTRICT AGENCIES**

No comments were received from other District agencies.

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<sup>1</sup> BZA Order 17500, dated July 19, 2006

## VIII. COMMUNITY COMMENTS

ANC 2F, at its regularly scheduled meeting of October 5, 2011, voted to support the application.

No other comments were received.

JS/sjm<sup>AICP</sup>

Attachment: Zoning and Vicinity Map

